IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2991 OF 2003

In

SUIT NO.3182 OF 2003

Gokuldas Ramraya Pai : Plaintiff

V/s.

Jaywant Ramchandra Keni & Ors. : Defendants

...

Mr.D.A. Barot for the plaintiff.

Mr.D.H.Mehta i/b. M/s.Shroff & Co., for the defendants.

...

CORAM : S.U. KAMDAR, J.

DATE : February 15, 2006.

P.C.

1. By consent of the parties, the following order is passed:-

The ad-interim order dated 16.10.2003 passed by F.I. Rebello, J. is confirmed, subject to the following modifications:-

(i) The learned counsel appearing for the defendants states that in terms of para 7(i) of the order dated 16.10.2003, the defendants have compiled with

the conditions by obtaining T.D.R. and they will not utilise the F.S.I. of 571.48 sq. mtrs., but construct only on the basis of the T.D.R. purchased by them. In the light of the aforesaid, the defendants will be at liberty to carry out further constructions, subject to the conditions which are mentioned in para 7(i) of the said order.

(ii) Para 7(ii) of the order is substituted by the following order:-

The Court Receiver, High Court, Bombay, will stand appointed as Receiver in respect of flat no.201, admeasuring 1,000 sq. ft. of built up area on a building constructed on the suit plot known as "Bhushan Plaza". The Court Receiver, High Court, Bombay, shall appoint the plaintiff as the agent of the Court Receiver on usual terms and conditions, but without security.

The Receiver will put the plaintiff in possession only after the plaintiff deposits a sum of Rs.700,000/- (Rupees Seven Lakhs only) with the office of the Prothonotary & Senior Master, High Court, Bombay. The plaintiff shall deposit the said sum of Rs.700,000/- within seven days from the

date the defendants intimating him about the receipt of the Occupation Certificate from the B.M.C.

The Prothonotary & Senior Master is directed to invest the said Rs.700,000/- in a Fixed Deposit with any Nationalised Bank initially for a period of three years and one month and renew the same from time to time with accrued interest thereon, till the disposal of the suit.

(iii) The plaintiff will execute agency agreement with the Receiver and shall undertake to make payment of royalty charges as well as all other outgoings which may be payable in respect of the said flat towards property tax, maintenance, security charges, etc.

(iv) The plaintiff will not alienate, encumber or create any third-party rights or induct any person, except his family members, in respect of the suit flat.

(v) The learned counsel for the plaintiff further undertakes that the plaintiff will not address any letter to any authorities obstructing the construction by the defendants by virtue of the

T.D.R. purchased by them. However, the plaintiff will apply to the Court if he has any grievance in respect thereof.

(vi) The defendants will put the plaintiff in possession as soon as Occupation Certificate is received by the defendants and the defendants will be liable to intimate the Receiver the receipt of the Occupation Certificate within seven days from the date of receipt thereof.

(vii) Till the Receiver takes charge, the ad-interim order in terms of para 7(ii) to continue.

2. The Notice of Motion is disposed of accordingly. No order as to costs.

S.U. KAMDAR, J.